

Appl. No. : 10/817,327
Filed : April 2, 2004

REMARKS

In the outstanding Office Action, the Examiner has rejected Claims 1-41. Reconsideration and allowance of all Claims 1-41 in light of the present remarks is respectfully requested.

Discussion of Objections to the Specification

The disclosure was objected to because the related application data was missing. The specification has been amended to include the application number of the identified related application. Accordingly, Applicant respectfully requests the objection to the specification be withdrawn.

Discussion of Double Patenting Rejection

Claims 1-41 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-32 of copending application No. 10/817,765. Applicant has enclosed a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) showing application No. 10/817,765 to be commonly owned with the present application. Applicant therefore respectfully requests the rejection of Claim 1-41 be withdrawn.

Applicant notes that the filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991). The filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection.

Applicant has endeavored to address all issues raised in the Office Action. However, if there is any remaining impediment to allowance of the application, the Examiner is requested to call the undersigned directly.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP



Dated: 6/29/05

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